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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

TC RICH, LLC *et al.*,

Plaintiffs,

V.

PACIFICA CHEMICAL
INCORPORATED, *et al.*,

Defendants.

Case No. 2:15-cv-4878-DMG(AGRx)

JOINT STATUS REPORT

Assigned to Judge Dolly M. Gee

Discovery cut-off: None set
Trial date: None set

AND RELATED CROSS-ACTIONS

Pursuant to the Order Re Litigation Stay (ECF No. 90) filed on July 3, 2017 (the “Stay Order”), Plaintiffs TC Rich, LLC, Rifle Freight, Inc., Fleischer Customs Brokers, Richard G. Fleischer, and Jacqueline Fleischer (“Plaintiffs”), Plaintiff-Intervenor 13301 S. Main Street, LLC (“Intervenor”), and Defendant Pacifica Chemical Incorporated (“Pacifica”) (collectively, the “Parties”) file this Joint Status Report to inform the Court of the Parties’ progress in settlement negotiations and the environmental investigation.

I. BACKGROUND

Plaintiffs are the current owners and occupants of the real property located at located at 132 West 132nd Street, Los Angeles, (the “Property”). In their Complaint,



1 Plaintiffs allege that the soil, soil vapor, indoor air, and groundwater at the Property
 2 is contaminated with tetrachloroethylene, also known as perchloroethylene (“PCE”).
 3 Plaintiffs further allege that Pacifica is liable for the contamination under the
 4 Comprehensive Environmental Response, Compensation, and Liability Act
 5 (“CERCLA”), 42 U.S.C. §§ 9607. Pacifica filed a Counterclaim asserting Plaintiffs
 6 were liable as the current owners of the Property. Later, Plaintiff-Intervenor filed a
 7 Complaint-In-Intervention alleging that the contamination had migrated onto its
 8 adjacent property and that both Plaintiffs and Pacifica were liable.

9 On June 7, 2017, the Parties attended the Second Settlement Conference with
 10 Magistrate Judge Gandhi where a framework for a prospective settlement was
 11 developed. Key to the settlement was evaluating perceived data gaps by installing
 12 additional groundwater wells and obtaining approval of a Removal Action Workplan
 13 (“RAW”) from the Department of Toxic Substances Control (“DTSC”).

14 **II. STATUS OF ENVIRONMENTAL INVESTIGATION**

15 Significant progress has been made since the Stay Order was issued. First, the
 16 groundwater wells were installed and sampled. Next, on November 20, 2017, the
 17 draft RAW was submitted to DTSC. Most recently, at the beginning of January 2018,
 18 DTSC provided written comments to the RAW.

19 Although progress has been made, it has not comported with the timeline
 20 anticipated in the Stay Order. Pacifica is still preparing its response to DTSC’s
 21 comments and evaluating how they impact the cost estimate and settlement. In
 22 particular, DTSC “recommends that a pilot test be conducted to evaluate and develop
 23 full-scale injection design parameters” for the planned Enhanced Reductive
 24 Dechlorination injections before a final remedy is implemented. Pacifica’s
 25 consultant, Murex Environmental, Inc. (“Murex”) concurs with this point as it will
 26 allow Murex to refine its cost estimate for the remedy and make sure the technology
 27 is effective. And, importantly, Pacifica’s insurer, Fireman’s Fund Insurance
 28 Company, has agreed to pay for the costs associated with the pilot test. Murex



1 estimates that it will take 12 months to complete the pilot test, including the requisite
 2 reporting.

3 Therefore, while progress toward a final settlement is ongoing, dismissal of
 4 this case is premature. More time is necessary to respond to DTSC's comments on
 5 the draft RAW. After DTSC is satisfied with a revised draft RAW, a 30-day public
 6 comment period will commence and additional changes may be required. Further,
 7 once the final RAW is approved, Murex will need to complete the groundwater pilot
 8 test before it can refine its fixed-price for the remediation.

9 III. SCHEDULING CONFERENCE

10 Given the above, the Parties request that the status conference be continued
 11 from January 26, 2018 to January 25, 2019 and that the Parties either file dismissals
 12 or an updated joint status report by January 18, 2019. In addition, Pacifica will file
 13 an interim status report on or before August 24, 2018 to update the Court and the
 14 Parties on the progress of the pilot test.

15 DATED: January 19, 2018

PALADIN LAW GROUP® LLP

17 */s/ Bret A. Stone*

18 Bret A. Stone
 19 Counsel for Defendant Pacifica Chemical
 20 Incorporated

21 DATED: January 19, 2018

RAINES FELDMAN LLP

23 */s/ John S. Cha*

24 John S. Cha
 25 Steven T. Gebelin
 26 Counsel for Plaintiffs



1 DATED: January 19, 2018

FOLEY & LARDNER LLP

3 /s/ *Tony Tootell*

4
5 Sarah A. Slack
6 Tony Tootell
7 Counsel for Plaintiff-Intervenor

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